

**TO: Joint Legislative Administrative Procedure Oversight Committee and the
Joint Legislative Oversight Committee on Justice and Public Safety**

FROM: James S. Adcock III, Town Attorney, Fuquay-Varina, NC

RE: Ordinance Reporting requirement for criminalized local ordinances

Date: October 29, 2019

The following report is in response to Session Law 2019-198 requiring the following action: Every county with a population of 20,000 or more according to the last federal decennial census, city or town with a population of 1,000 or more according to the last federal decennial census, or metropolitan sewerage district that has enacted an ordinance punishable pursuant to G.S. 14-4(a) shall create a list of applicable ordinances with a description of the conduct subject to criminal punishment in each ordinance. Each county, city, town, or metropolitan sewerage district shall submit the list to the Joint Legislative Administrative Procedure Oversight Committee and the Joint Legislative Oversight Committee no later than November 1, 2019.

The Town of Fuquay-Varina has a Town Code which is applicable primarily within the Town limits and a Land Development Ordinance, which is applicable in the Town limits and the Town's extraterritorial jurisdiction. With reference to the Town Code, this report will include of ordinances with specific misdemeanor penalties, and ordinances without specific penalties, but which are punishable by a misdemeanor under the general penalty in §1-1005 of the Town Code. Similarly, with reference to the Land Development Ordinance, the report will include ordinances with specific misdemeanor penalties, and ordinances without specific penalties, but which are punishable by a misdemeanor under the general penalty in §9-1853 of the Land Development Ordinance.

GENERAL ORDINANCES

§ 1-1005. - Criminal penalty; not exclusive remedy; continuing violations.

- (a) Unless this Code of Ordinances shall otherwise provide, violation of any provisions hereof shall be a misdemeanor punishable upon conviction by a fine not exceeding \$50.00 or by imprisonment not exceeding 30 days, as provided in G.S. 14-4. A provision of this Code may provide by express statement that the maximum fine or term of imprisonment to be imposed for its violation shall be some figure or number of days less than the maximum penalties prescribed by G.S. 14-4

Part 3 - Public Safety

Chapter 1 - Law Enforcement

§ 3-1006. - May summon aid.

It shall be unlawful for any person to fail, neglect or refuse to aid any police officer in the lawful performance of his duty when said person is lawfully commanded by such police officer to assist or aid.

§ 3-1007. - Interfering with police.

It shall be unlawful for any person to interfere with, hamper, molest, resist or hinder a police officer in the lawful discharge of his duty.

Chapter 2 - Fire Prevention & Protection

§ 3-2004. - Lock box requirements.

(d) *Violations; enforcement.*

- (1) Violations of this section shall be a misdemeanor as provided under G.S. 160A-175 and 14-4. Each 24-hour period that elapses shall constitute a separate offense as provided by G.S. 160A-175(g).

§ 3-2007. - Failure to comply with lawful order

It shall be unlawful for the owner or occupant of any building or premises to fail, refuse or otherwise delay in the compliance of any lawful order directed to them by the Fire Chief or Fire Marshal.

§ 3-2009. - Citizens must keep clear at fires.

It shall be unlawful for any person to stand or be in any street or alley or square, or other public place, in such a manner or way as to interfere with the duties of the Fire Department, provided that such person has not been asked to assist by a member of such Fire Department.

§3-2012 Open Burning

(i) *Sky lanterns.* It shall be unlawful for any person to ignite, set aloft or use a sky lantern in the Town

§ 3-3001. - State of emergency.

§ 3-3003. - Penalty for violation.

The violation of any provision of this article, or of any provision of any restriction imposed by any declaration authorized by this article, shall constitute a misdemeanor, punishable upon conviction by a fine not exceeding \$50.00 or imprisonment not exceeding 30 days, as provided by G.S. 14-4.

Article B Emergency Management

§ 3-3016. - Violation of regulations.

It shall be unlawful for any person to violate any of the provisions of this article or of the regulations or plans issued pursuant to the authority contained herein, or to willfully obstruct, hinder or delay any member of the Town of Fuquay-Varina as herein defined in the enforcement of the provisions of this article or any regulations or plan issued thereunder.

Part 6 Licensing & Regulation

Chapter 1 Businesses and Trades

Article A Taxicabs

§ 6-1010. - Required.

It shall be unlawful for any person within the corporate limits to engage in the business of operating one or more taxicabs or to permit any taxicab of which the person is the owner to be driven, unless a valid owner's permit shall have been issued. The permit shall constitute a certificate of convenience and necessity.

Article C – Pawnbrokers

§ 6-1031. - License required.

It is unlawful for any person, firm or corporation to establish or conduct a business of pawnbroker unless such person, firm or corporation has procured a license to conduct business in compliance with the requirements of this article and the Pawnbrokers and Cash Converters Modernization Act, as amended. Such license shall expire on June 30 of each year and shall not be transferable.

Article D – Peddling, Soliciting & Itinerant Merchants

§ 6-1051. - Penalty.

Commercial solicitation without a permit or otherwise in violation of any of the provisions of this chapter, including failing to surrender a revoked permit, shall constitute a criminal misdemeanor and shall subject the offender to a fine of not more than \$500.00 or imprisonment for not more than 30 days.

Article E - Flammable Fluids & Explosives

§6-1077(c) It shall be unlawful to keep or store more than 55 gallons of gasoline, kerosene, naphtha, diesel oil, fuel oil, distillate, oil or other inflammable or explosive derivatives which are offered for wholesale or retail sale in any part of the Town unless such inflammable liquids are kept in a tank or a suitable closed container

Chapter 2 Street & Sidewalk Use & Regulation

§ 6-2001. - Placing objects on streets or sidewalks.

It shall be unlawful for any person, corporation or business to store, pile, deposit, erect, keep or place, or cause, permit or suffer to be stored, piled, deposited, erected, kept or placed, upon any sidewalk or sidewalk area in the Town any rubbish, wood, coal, boxes, barrels, stone, brick, lumber, dirt, merchandise, shipping case, stand, stall, booth or show case or other obstruction of any kind, except as otherwise provided and allowed by the garbage collection ordinance

6-2002. - Display of merchandise.

Except as otherwise provided by ordinance, it shall be unlawful for any person, business or corporation to place or set out for exhibition any goods, wares, merchandise or any kind of item directly connected with the business transacted by him, on the sidewalk or sidewalk area in front of a place of business, store or building owned, controlled or occupied by him.

§ 6-2003. - Awnings.

It shall be unlawful for any person to erect and maintain any shelter, sunshade or awning in front of any building, which shall be less than seven feet above the level of the sidewalk. All stationary awnings shall not be less than eight feet above the level of the sidewalk

§ 6-2005. - Assembly on sidewalk.

All persons are forbidden from assembling or collecting and standing so as to obstruct any sidewalk or street, and all persons so collecting and standing shall disperse and move upon the demand of any police officer. Any person violating this section shall be guilty of a misdemeanor.

§ 6-2011. - Littering—Prohibited.

It shall be unlawful for any person, firm, organization or private corporation to throw or deposit upon any street or sidewalk, or upon any private property, except with written permission of the owner or occupant of such private property any trash, refuse, garbage, building material, cans, bottles, broken glass, paper or any type of litter.

§ 6-2012. - Same—Vehicles.

It shall be unlawful for any person while a driver or a passenger in a vehicle to throw or deposit litter upon any street or other public place within the Town or upon private property.

§ 6-2013. - Same—Violation.

Any person found guilty of violating sections 6-2011 and 6-2012 shall be guilty of a misdemeanor and shall be fined not more than \$50.00 or imprisoned for not more than 30 days.

§ 6-2023. - Permit required.

It shall be unlawful for any person to organize, conduct or participate in any parade or demonstration in or upon any street, sidewalk, alley or other public place within the Town unless a permit has been issued by the Town, in accordance with the provisions of this article.

§ 6-2027. - Violation.

It shall be an unlawful violation for any person to conduct or participate in any parade or demonstration for any purposes, or in any manner, other than those set out in the application and permit.

Part 7 Motor Vehicles & Traffic

§ 7-1021. - Required obedience to traffic ordinances.

- (a) It shall be unlawful for any person to perform any act in violation of these ordinances, \or fail to perform any act required by these ordinances.
- (b) Any person violating the provisions of these ordinances shall be guilty of a misdemeanor.

§ 7-1022. - Obedience to police.

It shall be unlawful for any person to refuse or disobey any lawful order of a police officer when such officer is on duty. For the provisions of this section, an officer is considered to be on duty when in uniform or when he has identified himself to be a police officer.

§ 7-1025. - Public employees to obey traffic ordinances.

The provisions of these ordinances shall apply to the drivers of any vehicles owned or operated by, or used in the service of, the United States government, the State government, County government or Town government, and it shall be unlawful for any driver of such vehicle to violate any of the provisions of these ordinances or statutes of North Carolina.

§ 7-1027. - What to do on approach of Police or Fire Department vehicles; driving over fire hose or blocking firefighting equipment.

- (b) It shall be unlawful for the driver of any vehicle other than one on official business to follow any fire apparatus traveling in response to a fire alarm closer than one city block or to drive into or park such vehicle within one block where a fire apparatus has stopped to answer to a fire alarm.
- (c) It shall be unlawful to drive a motor vehicle over a fire hose or any other equipment that is being used at a fire at any time, or to block a firefighting apparatus or any other equipment from its source of supply regardless of its distance from the fire.

§ 7-1029. - Driving of vehicles on sidewalk.

No person shall drive a vehicle upon any sidewalk area with the exception of a permanent or temporary driveway. It is the driver's responsibility to yield to the pedestrian at the driveway-sidewalk interface. No person shall park a vehicle upon any sidewalk area including at the driveway-sidewalk interface.

§ 7-1030. - Vehicles moving from parked position.

The driver of any vehicle parallel parked shall leave such position in the direction that the vehicle is headed, or the driver of any vehicle parked at an angle, shall back out from the curb at the same angle until such vehicle has cleared the other vehicles so parked and shall then proceed in the direction that the vehicle is most nearly headed, provided that such movement can be made in safety.

§ 7-1031. - Driving through funeral procession.

No person shall drive a vehicle through a funeral procession. Exception to this will be Police or Fire Department vehicles, or ambulances in responding to emergency calls.

§ 7-1032. - Stopping where traffic would be obstructed.

No person shall move a vehicle across an intersection or a marked crosswalk, unless there is sufficient space on the other side of said intersection or crosswalk to accommodate such vehicle without obstructing the passage of other vehicles or pedestrians, even if a traffic control signal indicates such movement to be lawful.

§ 7-1033. - Backing on a public street.

No person shall back a vehicle into any intersection or crosswalk, nor shall such driver back such vehicle otherwise on a public street without ensuring that such movement can be made in safety and only then when ample warning is given by horn, hand signal or other signal.

§ 7-1034. - Driving on streets laned for traffic.

No person driving a vehicle on a street where such street is clearly marked by lines indicating traffic lanes shall drive outside these lines unless such movement can be made in safety.

§ 7-1035. - Turning at intersection marked by traffic lanes.

At intersections where turn lanes are clearly marked by arrows or such other markings, the driver of any vehicle shall make a turn from the lane so indicating his intended direction of movement.

§ 7-1041. - Through streets, required to stop before entering.

- (a) Any driver of any vehicle approaching into or across a street that is designated as a through street, and when such street has a stop sign clearly erected indicating that all vehicles are required to stop prior to entering such through street, shall bring such vehicle to a complete stop prior to entering the through street and shall remain in such stopped position until his movement into or across such through street can be made in safety without interfering with any vehicular traffic thereby using such through street.

§ 7-1042. - Intersection where stop is required.

- (a) At any intersection where there is a clearly visible stop sign so located, any driver of any vehicle shall be required to bring such vehicle to a complete stop before entering into or across such intersection, and shall remain in such stopped position until his movement into or across such intersection can be made in safety, and when such movement shall not interfere with any vehicle lawfully using such intersection.

§ 7-1043. - One-way streets.

- (a) Upon certain streets, vehicular traffic shall move only in the direction indicated by clearly visible traffic signs. When such signs are clearly visible indicating that traffic shall proceed in one direction only, it shall be unlawful for the driver or any vehicle to proceed in any direction in opposition to such posted traffic signs.

§ 7-1044. - Emerging from alley or driveway.

The driver of any vehicle emerging from an alley, driveway, or building, shall bring such vehicle to a complete stop prior to entering onto a sidewalk or the sidewalk area extending across the alleyway, driveway or building frontage, and shall remain in such stopped position until his movement into or across the street can be made in safety without interfering with any vehicular traffic lawfully using such street. It is the driver's responsibility to yield to the pedestrian at the driveway or alley interface with a sidewalk.

§ 7-1045. - Speed limitations—General.

Except as otherwise provided in this article, it shall be unlawful to operate a vehicle in excess of 35 miles per hour inside the municipal corporate limits.

§ 7-1047. - Operation of bicycle or motorcycle without hands on handlebars.

No person shall operate a bicycle or motorcycle on the public streets without having both hands on the handlebars at all times with the exception of when such operator is giving an arm signal for a turn, stopping or slowing movement.

§ 7-1048. - Operation of bicycle, motorcycle, or skateboard on public sidewalks.

No person shall operate a bicycle, motorcycle, or skateboard on the public sidewalk with the exception of when this movement is proceeding across such sidewalk at a private driveway or alleyway where such movement is necessary to enter into a public street.

§ 7-1049. - Operation of motorcycles or bicycles more than two abreast.

It shall be unlawful for persons operating motorcycles or bicycles on the public street to travel thereon more than two abreast.

§ 7-1050. - Operator & riders of motorcycles required to wear helmets; overcrowded.

- (a) No motorcycle shall be operated on a public street unless the operator and all passengers thereon wear safety helmets of a type approved by the Commissioner of Motor Vehicles.

- (b) No person shall operate a motorcycle upon the public streets when the number of persons upon such motorcycle, including the operator, shall exceed the number of persons for which it was designed to carry.

§ 7-1051. - Riding on handlebars of motorcycle or bicycle prohibited.

The operator of a motorcycle or bicycle, while operating such vehicle upon the public street, shall not carry any person upon the handlebars, frame or tank of such vehicle, nor shall any person so ride upon any such vehicle.

§ 7-1052. - Clinging to moving vehicles.

Any person riding upon any bicycle, motorcycle, coaster, sled, roller skates, toy vehicle, skateboard or any other such vehicle shall not attach the same, or himself, to any public conveyance or moving vehicle upon any public street.

§ 7-1053. - Use of coasters, roller skates, & similar devices restricted.

No person on roller skates or riding in any coaster, toy vehicle, skateboard or similar device shall go upon any public street, other than a street set aside as a play street, unless it be while crossing at a crosswalk or intersection.

§ 7-1054. - Not more than three persons permitted in front seat.

It shall be unlawful for the driver or the person in charge of any motor vehicle to permit more than three persons, including the driver of such vehicle, to ride in the front seat or driver's seat of such vehicle.

§ 7-1055. - Persons riding must stay inside vehicle.

No person shall allow any part of his body to protrude beyond the limits of the vehicle in which he is riding, except to give such signals as required by law, and no person shall hang onto any vehicle whatsoever.

§ 7-1056. - Entering, jumping on or riding vehicle without owner's permission.

No person shall enter, jump on or ride any vehicle or automobile without the owner's or the driver's consent of such vehicle.

§ 7-1057. - Unlawful riding.

No person shall ride on any public conveyance or vehicle not designed or intended for the use of passengers on the public street. This provision shall not apply to an employee engaged in the necessary discharge of his duty or to persons riding in truck bodies in spaces intended for merchandising.

§ 7-1058. - Boarding, or alighting from, vehicles.

No person shall board, or alight from, any public conveyance or other vehicle on the public streets while such conveyance or vehicle is in motion.

§ 7-1059. - Steering mechanism.

The steering mechanism of every self-propelled vehicle operated on the public streets shall be maintained in good working order, sufficient to enable the operator to control the vehicle's movements and to maneuver it safely.

§ 7-1065. - Railroad warning signals must be obeyed.

Whenever any person driving a vehicle approaches a street railway grade crossing, and a clearly visible and positive signal gives warning of the immediate approach of a railway train or car, it shall be unlawful for the driver of the vehicle to fail to bring the vehicle to a complete stop before traversing such grade crossing.

§ 7-1066. - Right-of-way at intersections.

- (a) When an intersection exists where there is no control sign present and two vehicles enter the intersection at approximately the same time, the driver of the vehicle on the left shall yield to the vehicle on the right.
- (b) When the driver of a vehicle approaches such intersection and there is another vehicle already within such intersection, he shall yield to the vehicle so in the intersection.
- (c) Whenever authorized yield right-of-way signs are placed or installed at any street intersection, any vehicle facing such signs shall slow down and yield the right-of-way to any vehicle in movement on the main traveled or through highway or street which is approaching so as to arrive at the intersection at approximately the same time as the vehicle entering the main traveled highway or street.

§ 7-1068. - Zone of quiet.

Whenever authorized signs are placed indicating a zone of quiet, any person operating a motor vehicle within such zone shall not sound the horn or any other warning device located on such vehicle, except in an emergency.

§ 7-1069. - Play street.

Whenever authorized signs are placed indicating any street, or part thereof, as a play street, no person shall drive a vehicle upon any such street, except persons who have business, or who reside, within the designated areas; all such persons operating a vehicle on such street shall exercise the greatest care when driving upon such street.

§ 7-1070. - School zone.

Whenever authorized signs are placed designating any street, or part thereof, as a school zone, the driver of any motor vehicle using such street or part thereof, shall exercise the greatest care for the protection of children.

§ 7-1072. - Transporting flammable fluids.

Vehicles carrying flammable fluids may not park within the Town limits and must follow such truck routes as may have been established, except with a maximum capacity of 1,800 gallons (separated in compartments holding no more than 600 gallons each), which may park for the purposes of loading and unloading only.

§ 7-1073. - Transporting explosives.

- (a) *Transporting of explosives in passenger conveyances.* No person shall transport or carry any explosive in any public conveyance which is carrying passengers for hire.
- (b) *Marking of vehicles carrying explosives.* Every vehicle carrying explosives shall have displayed on its front, side and back, in easily legible white letters at least six inches high, on a red background, the warning: EXPLOSIVES—DANGEROUS. In lieu thereof they shall display upon an erect pole, fastened to the front end of such vehicle and at such height that it is visible from all directions, a red

flag with the word DANGER printed, stamped or sewed thereon in white letters. Such flag shall be at least 18 inches by 30 inches in size and the letters thereon shall be at least six inches high.

- (c) *Drivers of vehicles carrying explosives.* No person in charge of a vehicle containing explosives may smoke upon such vehicle, nor may he drive such vehicle while intoxicated, or drive or load such vehicle in a careless manner.
- (d) *Certain articles not to be carried in vehicle carrying explosives.* No person shall carry in the bed or body of any vehicle containing explosives, any metal tools or other pieces of metal, nor any exploiters, detonators, blasting caps, matches or other similar devices of explosive material.

§ 7-1074. - Operation of vehicles during blackout.

No person shall operate a vehicle on the public streets during a blackout, with the exception of emergency vehicles or civilian defense vehicles.

§ 7-1075. - Failure to obey citation or notice.

- (a) Any person who violates a citation or notice to appear given by an officer for any traffic violation is guilty of a misdemeanor, regardless of the disposition of the charge on which he was originally arrested.
- (b) Any driver of a motor vehicle who willfully neglects to answer to the charges set forth in a notice affixed to such motor vehicle by a police officer as provided by an ordinance shall be deemed guilty of the charge for which the notice was originally issued.

§ 7-1076. - Penalty for violation.

Any person violating any of the terms of this article shall be guilty of a misdemeanor.

Article B - Pedestrians' Rights & Duties

§ 7-1091. - Pedestrians subject to traffic signals.

At any intersection controlled by traffic signals, any pedestrian thereby using such intersection shall be subject to the control of the said traffic signals. Where warranted, pedestrian signal indications shall be used at traffic signals, however.

§ 7-1092. - Pedestrians' right-of-way at crosswalk.

- (a) Where traffic control signals are not in place or in operation, the driver of any vehicle shall yield right-of-way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within any marked crosswalk or within any unmarked crosswalk at an intersection, except as otherwise stated in this article.
- (b) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any vehicle to the rear shall not overtake and pass the stopped vehicle.

§ 7-1093. - Crossing at other than crosswalk.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk, or within an unmarked crosswalk at an intersection, shall yield the right-of-way to all vehicles upon such roadway.
- (b) Any pedestrian crossing a roadway where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles on the roadway.
- (c) Between adjacent intersections, at which traffic signals are in operation, pedestrians shall not cross at any place except in a marked crosswalk.

- (d) It shall be unlawful for pedestrians to walk along the traveled portion of the roadway where there is a sidewalk provided; or if there is not a sidewalk, the pedestrian shall walk alongside the extreme left-hand side of the roadway, and the pedestrian shall yield the right-of-way to all approaching vehicular traffic.
- (e) Every driver of every vehicle shall exercise due care to avoid colliding with any pedestrian upon any roadway, and shall give warning by sounding of horn where necessary, and shall observe proper precaution upon observing any child, or any confused, or any incapacitated person upon such roadway.

§ 7-1094. - Sitting or lying upon streets prohibited.

- (a) No person shall willfully stand, sit or lie upon any street in such a manner as to impede the regular flow of traffic.
- (b) Any person convicted of violating this section shall be punished by fine or imprisonment, or both, at the discretion of the court.

§ 7-1095. - Right-of-way at crossings, intersections & traffic control points; white cane or guide dog to serve as signal for the blind.

At any street crossing or intersection, where the movement of traffic is not regulated by a traffic officer or by traffic control signal, any blind or partially blind person shall be entitled to the right-of-way at such crossing or intersection, if such blind or partially blind person shall extend before him at arm's length a cane white in color or white tipped with red or if such person is accompanied by a guide dog. Upon receiving such a signal, all traffic at or approaching such crossing or intersection shall come to a complete stop, leaving a clear lane through which such blind person may pass, and such vehicle shall remain stationary until such blind person has completed such crossing or intersection. At such intersection or crossing where the movement of traffic is controlled by traffic control signals, blind or partially blind persons shall be entitled to the right-of-way if such person having such cane or accompanied by such dog shall be partly across such crossing or intersection at the time that the traffic control signal changes, and all vehicles shall stop and remain stopped until such person has completed the crossing.

§ 7-1096. - Rights & privileges of blind persons without white cane or guide dog.

Nothing contained in this part shall be construed to deprive any blind or partially blind person not carrying a cane white in color or white tipped in red, or being accompanied by a guide dog, of any of the rights and privileges conferred by law upon pedestrians crossing streets, nor shall the failure of such blind or partially blind person to carry a cane white in color or white with a red tip, or to be accompanied by a guide dog, upon the streets or sidewalks be held to constitute or be evidence of contributory negligence by virtue of this part.

§ 7-1097. - Penalty.

Any person that willfully violates the provisions of this article shall be guilty of a misdemeanor.

§ 7-1158. - Fire lanes.

- (a) *Unlawful conduct.* It shall be unlawful for any person to park or leave a motor vehicle or to put or place any other object, structure, or obstruction in a fire lane which has been properly established and marked.

Part 8 - Offenses

Chapter 1 - Disorderly Conduct

§ 8-1001. - Drunk & disorderliness.

It shall be unlawful for any person to be drunk and disorderly in any public place, public street or public alley, whether in a vehicle, walking, sitting or standing.

§ 8-1002. - Drinking on Town property.

(a) *Consumption and possession of alcoholic beverages on Town property.*

- (1) Except as permitted in subsection (a)(2) and (3) of this section, it shall be unlawful for any person to consume or possess an open container of alcoholic beverage on any public street, public sidewalk, public alley, public parking lot or property owned by the Town, including parks and greenways.

§ 8-1003. - Unreasonably loud or obscene language on public property.

It shall be unlawful for any person to use any unreasonably or loud obscene language on any public street, public alley or at any other public place.

§ 8-1004. - Disturbing public meetings.

It shall be unlawful for any person to disturb any musical concert, theatrical performance, lecture, motion picture show, public entertainment or place of worship, or any other public gathering, by loud talking, whistling, hissing, shouting or any other conduct.

§ 8-1005. - Disorderly house.

It shall be unlawful for any person to keep a disorderly house, or house of ill-fame, and no person shall knowingly rent any house, apartment or other dwelling as a house of ill-fame, and any person living within such house shall be considered the keeper thereof.

§ 8-1006. - Admitting police to disorderly house.

It shall be unlawful for any occupant of any disorderly house to refuse to open his door and give entrance thereto to any police officer demanding admission for the purpose of suppressing disorderly conduct therein.

§ 8-1007. - Indecent exposure; obscene shows, etc.

It shall be unlawful for any person to willfully expose his person, or private parts thereof, or to aid and abet in any such act, or to procure another so as to expose their person, or the private parts thereof, or take part in any obscene show, exhibition or performance where dances or plays are conducted in any booth, tent, room or other public or private place in which the public is invited or present, or any person who, as owner, manager, lessee, director, promoter or agent, or in any other capacity, hires, leases or permits the land, building or premises of which he has control to be used for such purpose shall be guilty of a misdemeanor. Any person who willfully makes any indecent public exposure of his private parts of his person in any public place, or on private property where such action can be viewed by the general public is guilty of a misdemeanor.

§ 8-1008. - Writing or drawing obscene words or pictures on streets or walls.

It shall be unlawful for any person to perform any act, obscene language or to make obscene drawings or markings on any wall of any public or private building or on the public street or sidewalk.

§ 8-1009. - Injuring private property.

It shall be unlawful for any person to injure any property belonging to any individual other than himself, or to aid or abet in the injury of such property.

§ 8-1010. - Trespassing on Town property.

It shall be unlawful for any person to enter upon any real property belonging to, or under the control of, the Town unless he does so under the direction or supervision of the Board, if otherwise closed to the public.

§ 8-1011. - Obscene literature.

It shall be unlawful for any person, firm or corporation to exhibit for the purpose of gain, or display for sale, lend or hire, or otherwise publish or sell, or have in his possession for sale or distribution, any obscene literature, as determined and defined in the postal laws and regulations of the United States Postal Service in the form of book, paper-writing, print, drawing or other representation, at any newsstand, bookstore, drug store or other public or private place, and it shall be unlawful for any person to post any indecent placards, writings, pictures or drawings on walls fences, billboards or other public or private places.

§ 8-1012. - Seeing events without paying admission.

It shall be unlawful for any person to attempt to see any public entertainment for which a fee is charged without paying the admission fee so charged.

§ 8-1013. - Disruptive behavior in public.

- (a) It shall be unlawful for any person in a public place, street or highway, or public vehicular area, to be disruptive in any of the following ways:
 - (1) Blocking or otherwise interfering with traffic on the street, highway or public vehicular area;
 - (2) Blocking or lying across or otherwise preventing or interfering with access to or passage across a sidewalk, curb ramp, crossing or entrance to a building or parking area;
 - (3) Grabbing, shoving, pushing or fighting others or challenging others to a fight;
 - (4) Shouting at or otherwise rudely insulting others;
 - (5) Creating any unreasonably loud noise which shall disturb the public;
 - (6) Remaining on property that has been adequately posted "No Trespassing after Business Hours"; or
 - (7) Possession of open container of intoxicating beverage.
- (b) It shall be unlawful for any person to remain at a place where disruptive and disorderly conduct is taking place after being ordered to leave by a uniform police officer or an individual who has properly identified himself as a police officer.
- (c) Any person who violates subsection (a) or (b) of this section shall be guilty of a misdemeanor, punishable upon conviction by a fine of \$50.00, or imprisonment not exceeding 30 days, or both, in the discretion of the court.

Chapter 2 - Drugs

§ 8-2001. - Loitering for the purpose of engaging in drug-related activity.

- (c) It shall be unlawful for a person to remain or wander about in a public place in a manner and under circumstances manifesting the purpose to engage in a violation of any subdivision of North Carolina Controlled Substances Act, G.S. ch. 90, art. 5. Such circumstances that may be considered in determining a person's intent include the following:

- (1) Repeatedly beckoning to, stopping or attempting to stop passers-by, or repeatedly attempting to engage passers-by in conversation;
 - (2) Repeatedly stopping or attempting to stop motor vehicles;
 - (3) Repeatedly interfering with the free passage of other persons;
 - (4) Such person is a known unlawful drug user, possessor, or seller;
 - (5) Such person repeatedly passes to or receives from passers-by, whether on foot or in a vehicle, money or objects;
 - (6) Such person takes flight upon the approach or appearance of a police officer;
 - (7) Such person is at a location frequented by persons who use, possess or sell drugs; or
 - (8) Any vehicle involved is registered to a person who is a known unlawful drug user, possessor, or seller, or who is known to be or have been involved in drug-related activities.
- (d) Any person who violates the provisions of this section is guilty of a misdemeanor, and upon conviction shall be imprisoned for a period not to exceed 60 days and/or fined up to \$500.00 for each and every offense.

Chapter 4 - Health, Sanitation & Public Nuisances

§ 8-4002. - Nuisances prohibited; enumeration.

The following enumerated and described conditions are hereby found, deemed and declared to constitute a detriment, danger and hazard to the health, safety and general welfare of the people of the Town and are found, deemed and declared to be public nuisances wherever they may exist, and the creation, maintenance or failure to abate any nuisances is hereby declared unlawful. Public nuisance items listed in subsection (1) of this section shall be Class I nuisances and public nuisance items listed in subsection (2) of this section shall be Class II nuisances:

§ 8-4012. - Civil penalty provided.

- (a) A violation of any provision of this chapter shall constitute a misdemeanor punishable up to a \$500.00 fine or as a civil penalty as set forth below.

Chapter 5 - General Health Regulations

§ 8-5001. - Unlawful to violate County or State health regulations.

It shall be unlawful for any person to fail to comply with the regulations of Wake County Human Services or the North Carolina General Statutes.

Chapter 7 – Other General Nuisances

§ 8-7001. - Unreasonably loud noises—Prohibited.

It shall be unlawful for any person, firm or corporation to create or assist in creating, permit, continue or permit the continuance of any unreasonably loud, disturbing noise in the Town. Noise of such character, intensity and duration as to be detrimental to the life or health of any individual is prohibited.

§ 8-7003. - Fire bombs—Prohibited.

- (b) It shall be unlawful for any person or persons to manufacture, possess, transport or use any Molotov cocktail or other firebomb.

- (c) It shall be unlawful for any person or group of persons to possess all the items or materials needed to manufacture Molotov cocktails or other firebombs, other than his or their premises. The provisions of this section shall be cumulative and in addition to any other ordinance or General Statute of North Carolina on this subject.

§ 8-7005. - View to places serving drinks must be unobstructed.

It shall be unlawful for any screen or partition, or any other obstruction, to be so placed so as to cut off the free and unobstructed view from the front thereof into any room or place where alcoholic drinks of any kind are sold.

§ 8-7006. - Sweeping or throwing trash from windows.

It shall be unlawful for any person to sweep or throw paper, straw, glass, fruit rinds or other trash out of the windows of storehouses or other buildings, or to throw water or spit out the windows into the street or onto the sidewalk, and furthermore it shall be unlawful for any person to break glass on the public street or sidewalk.

§ 8-7007. - Must keep lots clean.

It shall be unlawful for any person operating any business within the Town to fail, refuse or neglect to keep the lot of said business free from trash, empty boxes, or any other debris, unless this said trash, boxes or other debris may be placed in containers for the collection of trash boxes or other debris.

§ 8-7008. - Discharging fireworks, etc.

It shall be unlawful for any person to discharge or explode any firecracker, cannon cracker, rocket or other explosive of whatever character upon any of the streets, alleys, sidewalks or other public places of the Town. This section shall not apply to fireworks discharged as part of a Town-sponsored activity or event.

§ 8-7009. - Signs or posters on poles, etc.

It shall be unlawful for any person to post, place, nail or otherwise place any sign or poster, advertisement on any pole, tree or sign located on any public property, nor shall any such poster or sign be placed on any Town-owned property nor within 50 feet of any polls designated as a place of election.

§ 8-7010. - Discarded refrigerators, etc.

It shall be unlawful for any person, firm or corporation to discard or have stored outside any ice box, refrigerator, freezer chest or any other airtight box onto any lot, street, alley, yard, platform or any other location outside of a building without first removing or making the latching mechanism inoperative in such a manner as to prevent the opening of said items by small children.

§ 8-7011. - Firearms.

It shall be unlawful for any person to discharge a firearm at any time or place within the Town of Fuquay-Varina corporate limits except when used in defense of person or property or pursuant to lawful directions of law enforcement officers.

Chapter 8 - Display of Sexually Explicit Materials to Minors

- (a) Violation of this chapter is declared to be a misdemeanor. The Chief of Police may seek from an appropriate official of the General Court of Justice an arrest warrant or other process initiating criminal charges against any person alleged to have violated this chapter. No other agent or

employee of the Town may, in his official capacity, seek an arrest warrant or other criminal process without the prior written approval of the Town Manager.

Chapter 9 - Hazardous Materials

- (1) Violations of this section shall constitute a misdemeanor as provided under G.S. 160A-175 and G.S. 14-4. Each 24-hour period that elapses shall constitute a separate offense as provided by G.S. 160A-175(g).

Chapter 11 - Animal Safety & Control

- (a) (5) All violations of this chapter shall be shall be a Class 3 misdemeanor and enforced pursuant to the provisions of G.S. 14-4, unless another specific provision herein imposes only a civil penalty or some other specific criminal penalty.

LAND DEVELOPMENT ORDINANCE

Article B - Building Regulation & Enforcement

§ 9-1053. - Nonresidential building & structure maintenance.

q. Violations & penalties.

- (1) *Violations.* It shall be unlawful for the owner(s) of any nonresidential building or structure to fail, neglect or refuse to repair, alter or improve the same, or to vacate and close and remove or demolish the same, upon order of the Inspections Director or Code Enforcement Officer duly made and served in accordance with the provisions of this article, within the time specified in such order, and each day that any such failure, neglect or refusal to comply with such order continues shall constitute a separate and distinct offense. It shall be unlawful for the owner of any nonresidential building or structure, with respect to which an order has been issued pursuant to this article, to occupy or permit the occupancy of the same after the time prescribed in such order for tis repair alteration, improvement or its vacation and closing, and each day that such occupancy continues after such prescribed time shall constitute a separate and distinct offense.

§ 9-1054. - Minimum housing.

- u. Violations & penalties.* If any person shall violate any provision of this article, such person shall be guilty of a Class 3 misdemeanor, and shall be fined not more than the maximum amount permitted by the North Carolina General Statutes.

Article I - Environmental Protection Standards

§ 9-1401. - Flood damage prevention regulations.

i. Administrative procedures

- (9) *Failure to comply with order.* If the owner(s) of the building or property fails to comply with an order to take corrective action from which no appeal has been taken, or fails to comply with an order

of the governing body following an appeal, he/she shall be guilty of a misdemeanor offense and shall be punished in the discretion of the court of jurisdiction

§ 9-1405. - Stormwater management regulations.

C. *Criminal penalties.* Violation of these Phase II requirements may be enforced as a misdemeanor subject to the maximum fine permissible in accordance with Article R Violations, Penalties & Legal Provisions and under North Carolina law

Article J - Subdivision Regulations

§ 9-1451. - Recording without approval.

b. *Violations & fines.* Any person violating any provisions of the subdivision regulations shall be guilty of a misdemeanor and, upon conviction shall be punished in accordance with G.S. 14-4. The civil penalty for each offense shall not exceed \$500.00. Each day that the violation continues shall constitute a separate offense. See Article R Violations, Penalties & Legal Provisions.

Article R - Violations, Penalties & Legal Provisions

§ 9-1852. - Unlawful to violate the Land Development Ordinance.

It shall be unlawful for any person to develop, reconstruct or use any land, building or structure within the Town's corporate limits or the extraterritorial jurisdiction (ETJ) in violation of the Land Development Ordinance. Any failure to comply with the standards, requirements, prohibitions or limitations imposed by the Land Development Ordinance, or the terms or conditions of any permit or other development approval or authorization granted pursuant to the Land Development Ordinance shall constitute a violation of the Land Development Ordinance.

§ 9-1853. - Enforcement against a violation.

The enforcement and procedures as set forth in this article shall be in addition to any other remedies that may not now or hereafter exist under law for the abatement of a violation. This article shall not prevent the Town of Fuquay-Varina from proceeding with a criminal proceeding against any person(s) violating the provisions of the Land Development Ordinance as provided in G.S. 14-4.

§ 9-1856. - Remedies & penalties.

(2) *Criminal penalty.* In addition to, or in lieu of such civil penalties or other remedies, any violation of the Land Development Ordinance may constitute a misdemeanor, pursuant to G.S. 160A-175 and G.S. 14-4 is punishable as a Class 3 misdemeanor and shall be fined an amount not more than \$500.00 but greater than \$50.00. The Court may also impose an appropriate sentence according to structured sentencing laws that take into account any prior convictions that may increase criminal penalties.